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- 1 68. (Newly added) A bifurcated prosthesis as claimed in claim 59
2 further comprising an additional stent mated to said second distal stent portion, said
3 additional stent having a graft layer formed from a bio-compatible fabric disposed in
4 juxtaposition with it and adapted to allow blood to flow from the proximal portion into
5 the other branched vessel.

REMARKS

Response to Official Action

Claims 54, 59, and 62-66 are currently pending in this application. By a Supplemental Amendment filed April 17, 1997, Applicants added new claim 67. This Supplemental Amendment was not considered by the Examiner before issuance of the final Official Action on April 21, 1997. Applicants hereby request entry and consideration of claim 67, and issuance of another Official action, if necessary, because claim 67 was not considered in the Official Action of April 21, 1997.

In the final Official Action, claims 59, 63, and 64 are allowed. Applicants acknowledge with thanks this indication of allowability. Applicants have, however, amended claim 59 to define that the second distal stent portion of the bifurcated prosthesis is "shorter than said first distal stent portion and configured to be disposed entirely within said blood vessel." Claim 59 is still allowable over the prior art.

New claim 68, which depends from claim 59, has been added to define limitations previously present in claim 59, but defined in connection with an additional stent attached to the second distal stent portion defined in claim 59. Claim 68 is patentable over the prior art.

Claims 54 and 62 stand rejected in the final Official Action under the judicially created doctrine of obviousness-type double patenting as unpatentable over claim 10 of U.S. Patent No. 5,562,726. Applicants enclose herewith a terminal disclaimer disclaiming the terminal portion of any patent issuing from this application extending beyond the term of the '726 patent. Withdrawal of the rejection and allowance of claims 54 and 62 are therefore requested.

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Accordingly, in light of the foregoing amendments and remarks, it is respectfully submitted that all of the claims of this application are in condition for allowance. Entry of this amendment and an indication of allowability are thus respectfully requested.

Request for Declaration of Interference

Applicant respectfully suggests that an interference should be declared between claim 59 of this application and claim 1 of U.S. Patent No. 5,575,817 (Martin) (copy enclosed), and between claim 68 of this application and claim 2 of Martin. Applicants propose that such interference be declared with at least one count corresponding to each of claims 1 and 2 of Martin. The cited claims of this application read on these proposed counts as follows:

Claim 59 reads on claim 1 of Martin (assumed to be the first count) in that the bifurcated proximal stent portion reads on the first section and the upper limb; the first distal stent portion reads on the first lower limb; and the second distal stent portion reads on the second lower limb. Although claim 59 also specifically defines a graft layer in juxtaposition with the stent, the stent-graft combination reads on the more generic "apparatus" defined in claim 1 of Martin.

Claim 68 reads on claim 2 of Martin (assumed to be the second count) in that the additional stent reads on the second section. Although claim 68 also specifically defines a graft layer in juxtaposition with the additional stent, the stent-graft combination reads on the more generic "apparatus" defined in claim 2 of Martin.

Martin was filed on August 19, 1994. The present application is a divisional of application Serial No. 08/317,763, filed October 4, 1994, which is in turn a continuation-in-part of application Serial No. 08/312,881, filed September 27, 1994. Both of these applications have effective filing dates based on two EPO applications, one filed February 9, 1994 and one filed June 10, 1994. The priority claim to the EPO applications antedates the August 19, 1994 filing date of Martin, thus eliminating the patent as a reference against this application. Because the February 9, 1994 effective

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filing date of the present application antedates Martin's filing date, Applicants should be senior party in any interference that is declared.

As a matter of information, Applicant has also proposed an interference between Applicant and the Martin patent in Applicant's U.S. application Serial Number 312,881, filed September 27, 1994, and Applicant's U.S. application Serial Number 461,402, filed June 5, 1995.

Upon declaration of the interference, Applicant will place each of the interfering claims of its various applications into a single application, request that they be added to the Interference, and cancel them from the respective applications in which they now appear.

The Examiner in charge of this application is invited to call either of Applicant's undersigned attorneys if any further information is needed or if it will expedite the prosecution of the referenced applications in any way.

Respectfully Submitted,



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AMW/mjs

Enclosure: Terminal Disclaimer and attachments,
Martin Patent

Dated: October 15, 1997

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The Assistant Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (703) 308-0758) on the date shown below.

October 15, 1997

